



Department of Pesticide Regulation



Mary-Ann Warmerdam
Director

MEMORANDUM

Arnold Schwarzenegger
Governor

TO: Linda S. Adams, Secretary
California Environmental Protection Agency

FROM: Mary-Ann Warmerdam
Director
916-445-4000

DATE: March 8, 2010

SUBJECT: REVIEW OF THE SYSTEMS OF INTERNAL CONTROL

In accordance with the Financial Integrity and State Managers Accountability Act of 1983, Government Code sections 13400 through 13407, the Department of Pesticide Regulation is submitting the attached report describing the review of our systems of internal control for the biennial period ending December 31, 2009.

As statutorily required, the Department of Pesticide Regulation is in compliance with Government Code section 12439.

If you have any questions or need further information, please contact me.

Attachment

cc: Governor's Office (w/Attachment)
Katarina Tarr, Joint Legislature Audit Committee (w/Attachment)
Ana J. Matosantos, Director of Finance (w/Attachment)
Bureau of State Audits (w/Attachment)
State Library (w/Attachment)
Eric Jarvis, California Environmental Protection Agency (w/Attachment)



AGENCY NAME: California Environmental Protection Agency
DEPARTMENT NAME: Pesticide Regulation
ORGANIZATION CODE: 3930

INTRODUCTION:

In accordance with the Financial Integrity and State Manager's Accountability Act of 1983, the Department of Pesticide Regulation (DPR) submits this report on the review of our systems of internal control for the biennial period ended December 31, 2009.

Should you have any questions, please contact JoAnne Payan, Assistant Director, Administrative Services Division, at (916) 445-4140 or jpayan@cdpr.ca.gov.

BACKGROUND:

California has regulated pesticides for a century. Its citizens, through their Legislature, have established a comprehensive body of laws to control every aspect of pesticide sales and use, and to assure that the state's pesticide regulators also have the tools to assess the impact of that use. The first pesticide-related law was passed in this state in 1901, and since the 1960s, a whole body of modern, increasingly science-based pesticide law and regulation has come into being.

DPR protects human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. DPR's strict oversight begins with product evaluation and registration, and continues through statewide licensing of commercial applicators, dealers, and consultants; environmental monitoring; and residue testing of fresh produce. In 2009, DPR had an annual budget of approximately \$72.7 million, with staff of approximately 385, including scientists from many disciplines. Their work is augmented by approximately 250 biologists working for county agricultural commissioners (CACs) in all 58 counties on local pesticide enforcement.

The Mission of the Department of Pesticide Regulation:

To protect human health and the environment by regulating pesticide sales and use, and by fostering reduced-risk pest management.

The Major Goals of the Department are to:

- Protect People and the Environment
 - Assure California's environment is not adversely affected by pesticides and that all people are protected from unacceptable pesticide risks.
- Advance Reduced-Risk Pest Management Systems
 - Advance the development and adoption of pest management systems that reduce risks to people and the environment.

- Ensure Assistance and Enforcement
 - Recognize that a strong and equitable compliance and enforcement program is the cornerstone to ensuring that people and the environment are not exposed to unacceptable pesticide risks.
- Ensure Environmental Justice
 - All Californians, regardless of race, age, culture, income, or geographic location, are protected from adverse environmental and health effects of pesticides.
- Continuously Improve Performance, Accountability, and Organizational Effectiveness
 - Improve the delivery of our programs by maintaining a strong workforce, improving our business processes, and employing e-government solutions.

Control Environment:

DPR's management sets the tone to ensure that its directives are carried out and to ensure that necessary internal controls and communication are in place to safeguard DPR's assets and operational effectiveness and efficiency. DPR has an established system of checks and balances, such as separation of duties; limited and authorized access to assets; and recordkeeping of assets, liabilities, revenues, and expenditures. Laws, rules, and regulations guide DPR's operations, which are translated into internal policies and procedures. Transactions and internal control procedures are properly documented and disseminated to staff. Staff evaluations and management communications ensure employees are at an appropriate level of skill and competency. Management properly enforces compliance with policies and procedures.

Integrity and Ethical Values:

Codes of conduct and other policies regarding acceptable business practices, conflicts of interest, and expected standards of ethical and moral behavior are communicated to employees through "Administrative Directives." These policy communications are reviewed by management, updated, and posted on the intranet for employees' information and education. If an employee violates these policies or codes of conduct, appropriate remedial action is taken. Remedial action may consist of referral to Employee Assistance Programs, Labor Relations, or the Equal Employment Opportunity Officer. Progressive discipline measures are taken when necessary, up to and including dismissal. These remedial actions are written directives and posted on DPR's Web site so that all employees are aware of expectations, standards, and enforcement procedures. The DPR Training Office tracks staff completion of the required ethics/conflict of interest training. As of December 31, 2009, all 246 employees required to take the ethics/conflict of interest training have completed the prescribed training.

Commitment to Competence:

Management analyzes and defines tasks, knowledge, and skills needed to perform the full array of staff functions. Duty statements are reviewed and updated to reflect appropriate responsibilities and include specific job competencies for each position. In addition, DPR uses competency-based interviewing that includes the competencies and experience that are key for success in each position. Annual performance evaluations and probationary reports indicate that employees have the requisite knowledge and skills needed to successfully perform the tasks

assigned to them. Employees are encouraged to increase their technical, scientific, and administrative knowledge and skills by enrolling in a variety of higher education course work, on-the-job training, and State-sponsored training.

DPR's Training Office proactively monitors all mandatory training (e.g., sexual harassment prevention, ethics, privacy, defensive driver, emergency, and new supervisor) and tracks by category job required, job related, upward mobility, and career related courses. In addition, to address succession planning, DPR has developed and implemented program offerings such as our one-of-a-kind job rotation and a knowledge transfer pilot, Talent-on-Demand; job competencies to increase career success; and maintains an employee resource center that arms employees with the practical tips and tools needed for career success.

Management's Philosophy and Operating Style:

Management is conservative in accepting risks, analyzes situations carefully and with caution, and proceeds only after reviewing all the risks and potential benefits of any actions.

Personnel turnover is at an acceptable level and is not excessive. However, DPR continues to be concerned about being able to recruit Medical Toxicologists. DPR, as other state agencies using this classification, continues to experience difficulty recruiting this doctoral-based classification due to low salary (in comparison to the private sector compensation levels). In addition, the most qualified candidates are often located back east and do not want to relocate for such a low paying position.

Senior management and operating management have frequent interaction in both formal and informal settings.

DPR emphasizes, in all program arenas, its local partnership with the CACs--particularly with regard to enforcement and worker protection. Since its inception, DPR has worked closely with our partners, the CACs, various stakeholders, and the public to carry out the department's mission.

The following illustrates how DPR's programs evolve and advance a progressive approach to protecting public health and the environment:

- In September 2008, Governor Schwarzenegger signed the nation's first pesticide container recycling law after DPR teamed up with the California Farm Bureau to push for the progressive initiative. Senate Bill 1723, carried by Senator Abel Maldonado (R-Santa Maria), requires first sellers of agricultural and commercial pesticides to either participate in a recycling program or create their own program. The new law helps farmers deal with a longstanding disposal problem while providing a safe process that turns heavy-duty plastic containers into materials like fencing, pallets, and marine pilings.
- In 2006, DPR began distributing wallet-sized cards to help field workers understand technical rules for using gloves and respirators. In 2009, DPR produced a laminated card for

workers that listed emergency phone numbers, as well as who to call if a pesticide illness occurs.

DPR is always looking for new ways to make pesticide information more readily available--and understandable--to the public. Our 2008 release of the "Community Guide to Recognizing and Reporting Pesticide Problems" represented another major accomplishment in this direction. The 34-page guide offers plain-language explanations that focus on practical solutions for real-world situations. The guide has already become a popular reference for public health agencies, emergency responders, community advocates, industry, local government officials, and individuals with pesticide questions or complaints. Topics include step-by-step instructions on what to do in a pesticide emergency, a discussion of pesticide drift and odor issues, and a checklist form to use when reporting a pesticide incident. The guide was prepared in consultation with the CACs, who act as DPR's local enforcement agents.

In 2008, DPR launched an online template of enforcement metrics, the Enforcement Statistical Profile. This comprehensive dataset is unique in its detail and public transparency. We use the Profile to identify trends and program changes, CAC staff training needs, and areas for industry outreach and improvements in inspection compliance. The Profile also allows for comparisons among similar counties and regions, the results are posted online graphically and numerically to provide a clear picture of where enforcement resources (time and money) are spent, and why. DPR will use the Profile to make future enforcement funding more efficient and effective, and reflect the needs of individual counties.

Taking the next logical step, DPR has also posted county work plans developed by CACs in cooperation with DPR, as well as our evaluations of county performance based on those plans.

Organizational Structure:

In 1991, DPR was established to:

1. Provide the proper, safe, and efficient use of pesticides essential for protection of the human health and safety.
2. Protect the environment from environmentally harmful pesticides by prohibiting, regulating, or ensuring proper stewardship of those pesticides.
3. Assure agricultural and pest control workers of safe working conditions where pesticides are present.
4. Permit agricultural pest control by competent and responsible licensees and permittees under strict control of the Director and the CACs.
5. Assure consumers and users that pesticides are properly labeled and appropriate for the use designated by the label and that state or local government dissemination of information on pesticidal uses of any registered pesticide product is consistent with the uses for which the product is registered.
6. Encourage the development and implementation of pest management systems, stressing the application of biological and cultural pest control techniques with selective pesticides when necessary to achieve acceptable levels of control with the least possible harm to the public health, nontarget organisms, and the environment.

Executive Leadership

DPR's Director, Chief Deputy Director, and Deputy Director for Legislation and Policy are appointed by the Governor. The Director's appointment requires Senate confirmation. The Executive Leadership Team is comprised of the senior leadership positions within DPR and is responsible for addressing the overall operating needs of DPR.

Staff

DPR is comprised of two divisions. The Pesticide Programs Division includes seven branches that are responsible for carrying out DPR's objectives through well-established program operations. The Administrative Services Division has three branches and one unit that provide those services necessary for supporting DPR's program operations (e.g., personnel, accounting, budgeting, contracting, information technology systems, and other related services). With the headquarters office in Sacramento, DPR also operates three regional offices in Anaheim, Fresno, and West Sacramento.

The revised 2009-10 Budget Act enacted on July 28, 2009, included legislation to eliminate or consolidate various boards, departments, and commissions. That legislation included Chapter 18, Statutes of 2009, Fourth Extraordinary Session (Assembly Bill 20), which transferred the Structural Pest Control Board (SPCB) from the jurisdiction of the Department of Consumer Affairs to DPR effective October 23, 2009. DPR has been working through various programmatic, administrative, statutory, regulatory, policy, and operational activity to affect this transition. The highly integrated system and environment that the Department of Consumer Affairs has developed, makes teasing out all SPCB's administrative components challenging. On the program side, DPR is faced with integrating program components that are not central to our mission.

Assignment of Authority and Responsibility

The level of authority and scope of responsibility assigned to each individual is based on the employee's job responsibilities, knowledge, skill, and past performance. Responsibility for decisions is related to assignment of authority and responsibility.

Employees empowered to correct problems or implement improvements are at the appropriate levels of competence. Clear boundaries of authority accompany empowerment. Supervisors and managers are the final decision makers.

Job duty statements incorporate DPR-based competencies and exist for all personnel, including management and supervisory positions, and contain specific reference to control-related responsibilities.

DPR follows the Personnel Services Branch administrative directives and procedures for hiring and promoting employees. Management communicates expectations about the type of recruitment and selection of staff resources that will enable DPR's continued success and participates directly in the hiring process.

Staff is made aware of their responsibilities and management's expectations through duty statements, reports of performance for probationary employees, Individual Development Plans, and performance appraisals. Periodic meetings with supervisory personnel are held to review job performance and make suggestions for improvement.

Internal Controls

VACANT POSITIONS:

DPR reviewed position activity records for fiscal years 2007-08 and 2008-09 and determined we are in compliance with Government Code section 12439.

RISK ASSESSMENT:

The risk assessment was performed using guidelines from the California Government Code; the State Administrative Manual; the Department of Finance's Office of State Audits and Evaluations; generally accepted accounting principles; the State Budget Act; the Department of Personnel Administration; rules and regulations of the Bureau of State Audits; and DPR's policies, procedures, and administrative directives.

Focus

Our review focused on administrative processes which directly support DPR's programs in pursuit of its strategic plan and organizational goals.

Audits

DPR was audited twice during this biennial year. The first audit was conducted by the Department of General Services' (DGS's) Office of Audit Services in September 2009 to review DPR's procurement program. While this audit has not been finalized, DPR management will put the necessary controls in place to help mitigate any identified risks.

The second audit was conducted by DGS's Office of Audit Services in September 2008 to review DPR's contracting program. DGS concluded that DPR is conducting its contracting program in compliance with the terms and conditions of its exemption. Further, DPR's contracting policies and procedures are sufficient to provide reasonable assurance of compliance with the State's contracting laws, policies, and procedures.

EVALUATION OF RISKS AND CONTROLS:

Program Areas

DPR uses operational planning to identify the programmatic responsibilities and resources needed to accomplish Department priorities for a given fiscal year, and as a measure of our accomplishments. Since our responsibilities and resources are not static, we must periodically update our plans to address changing program needs. Branch Chiefs and Assistant Directors meet at least twice a year with the Director and Chief Deputy Director to discuss progress on performance goals and possible adjustments of priorities and workload.

Operational planning guides the department in setting priorities and accomplishing what needs to be done to fulfill our mission. It assists DPR management in implementing, monitoring, and budgeting program activities. In this way, operational planning ensures that program activities are best positioned to achieve strategic results. DPR's operational plans for fiscal year 2009-10 can be found at <<http://www.cdpr.ca.gov/docs/dept/planning/operationalplan.htm>>.

In addition, DPR uses an annual Performance and Accountability Report, which illustrates how elements of DPR's planning and management system relate to one another. DPR uses a "function-based" approach to better manage the costs and performance of specific programs, which in turn reflect key outputs driven by statutory requirements. The report can be found at <<http://www.cdpr.ca.gov/docs/dept/planning/performance/index.htm>>.

Administrative Areas

Issue #1: A Complete Physical Inventory and Reconciliation Has Not Been Conducted

Risk:

The current property ledger is inaccurate, and the Department has not yet completed a physical inventory of property, nor reconciled the inventory count to the accounting records. The property ledger also includes many items for which no identification numbers are listed. As a result, the Department may be at risk in managing its fixed assets and preventing undetected theft of property.

Corrective Action:

DPR anticipates having its Property Controller begin conducting a complete inventory of all property by October 31, 2010. This inventory will reconcile the account with the Accounting Office. All property will be labeled for identification in order to maintain adequate control and accountability.

Issue #2: Vendors Are Not Paid Timely

Risk:

The Department is not always able to process invoices and claim schedules timely to ensure that vendors are paid within 45 days. Payments range from 46 to 65 days after the invoice date. Late payments may affect the timely delivery of future goods and services, complicate the year-end reporting and reconciliation processes, and expose the Department to late payment penalties. The California Prompt Payment Act, Government Code 927 et seq., requires state agencies to automatically calculate and pay the appropriate late payment penalties (as specified in the State Administrative Manual section 8474.2) if they fail to pay invoices by the invoice due date or 45 calendar days, whichever is earlier. For invoice processing, 30 of the 45 days are allocated to the state agency and the remaining 15 days are allocated to the State Controller's Office.

Corrective Action:

The department has trained new Accounts Payable staff and has conveyed the importance of processing invoices for payment in a timely manner. To facilitate this, the department has also streamlined the invoice approval process. This change has shortened the time between receiving the invoice, obtaining program approval, and claim scheduling the invoice for payment. As of December 31, 2009, the department has only had two late payment occurrences on two invoices totaling \$60.65, compared to fiscal year 2008-09 with 74 late payment occurrences for a total of \$5,671.62. Unfortunately, like all state agencies, DPR has no control over timely vendor payments during budget impasses that result in a total inability to compensate vendors when no budget is signed by the Governor.

CONCLUSION:

DPR certifies that our systems of internal controls are adequate to mitigate potential threats identified in the Evaluation of Risks and Controls Section above.